

Milstein, Adelman & Kreger, LLP
2800 Donald Douglas Loop North
Santa Monica, California 90405

MILSTEIN, ADELMAN & KREGER, LLP

Wayne S. Kreger, State Bar No. 154759
Sara D. Avila, State Bar No. 263213
2800 Donald Douglas Loop North
Santa Monica, California 90405
Telephone: (310) 396-9600
Fax: (310) 396-9635

WHATLEY DRAKE KALLAS

Joe Whatley, Jr. (*Pro Hac Vice*) NY Bar No. 4406088)
1540 BROADWAY, 37TH FLOOR
NEW YORK, NY 10036
Telephone: (212) 447-7070

LAW OFFICES OF HOWARD WEIL RUBINSTEIN

Howard W. Rubinstein (*Pro Hac Vice*) FL Bar No. 104108)
Post Office Box 4839
Aspen, Colorado 81611
Telephone: (832) 715-2788

Attorneys for Plaintiff Michelle Weeks

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

SABENA LAKSHMI KAMMULA;
MICHELLE WEEKS, individually and
on behalf of all others similarly
situated,

Plaintiff,

vs.

KELLOGG COMPANY, a Delaware
corporation; KELLOGG USA, INC., a
Michigan corporation; KELLOGG
SALES COMPANY, a Delaware
corporation, and DOES 1 through 100,
inclusive,

Defendants.

No. CV09-08102 (MMM) (RZx)

CLASS ACTION

**NOTICE OF MOTION AND
MOTION FOR CLASS
CERTIFICATION**

[Filed concurrently with Plaintiff's
Memorandum of Points and
Authorities (filed conditionally under
seal); Declaration of Wayne S. Kreger,
Esq. (filed conditionally under seal);
Declaration of Michelle Weeks;
[Proposed] Order]

Date: October 18, 2010
Time: 10:00 A.M.
Crtrm: 780
Judge: Hon. Margaret M. Morrow

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, on October 18, 2010 at 10:00 a.m., or as soon thereafter as the matter may be heard before the Margaret M. Morrow, United States District Court Judge, in the United States District Court for the Central District of California, located at 312 N. Spring Street, Los Angeles, CA 90012, Plaintiff Sabena Lakshmi Kammula (“Plaintiff”), on behalf of herself and the proposed class, will and hereby does move for class certification pursuant to Federal Rule of Civil Procedure 23(a) and 23(b)(3).

Plaintiff seeks to certify two California classes pursuant to Rules 23(a) and 23(b)(3), as follows. The proposed Cocoa Krispies Class consists of:

All persons residing in the State of California who purchased Cocoa Krispies for personal use and not for resale during the time period June 1, 2009 through February 28, 2010.

The proposed Rice Krispies Class consists of:

All persons residing in the State of California who purchased Rice Krispies for personal use and not for resale during the time period June 1, 2009 through February 28, 2010.

This motion is brought pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure and based on the grounds that class certification is proper.

First, each of the four requirements under Rule 23(a) is met. The numerosity requirement is easily met as the class is comprised of no less than tens of thousands of class members. The commonality requirement is also readily satisfied because there is a common core of salient facts and legal issues. Furthermore, Plaintiff’s claims are

1 typical of the class's – all arise from the same injury, same conduct, and same
 2 standardized misrepresentations by Defendants. Finally, Rule 23(a)(4)'s adequacy of
 3 representation requirement is also satisfied. Neither Plaintiff nor her counsel has any
 4 conflict of interest with the proposed class. Moreover, Plaintiff and her counsel will
 5 prosecute the action vigorously on behalf of the class.

6 Second, class certification is appropriate under Rule 23(b)(3). Regarding each
 7 of the three causes of action alleged in the complaint, common issues predominate
 8 over any individual questions. Moreover, under the circumstances, a class action is a
 9 superior method of adjudication.

10 Accordingly, Plaintiff respectfully moves for an order granting this motion for
 11 class certification and: (1) certifying a Rule 23(b)(3) Cocoa Krispies Class; (2)
 12 certifying a Rule 23(b)(3) Rice Krispies Class; (3) appointing Michelle Weeks as
 13 Class representative; and, (4) appointing Milstein, Adelman & Kreger, LLP and
 14 Whatley, Drake & Kallas, LLC as class counsel pursuant to Fed.R. Civ.P. 23(g). This
 15 motion is brought in accordance with Local Rule 23-3 and made following a
 16 conference of counsel pursuant to Local Rule 7-3 which took place on February 12,
 17 2010. (*See* Kreger Decl.).

18 This motion is based upon this notice of motion, the concurrently-filed motion
 19 and memorandum of points and authorities in support thereof, the declaration of
 20 Wayne Kreger and all exhibits attached thereto, the declaration of Sabena Lakshmi
 21 Kammula, all of the papers and pleadings on file in this action, and upon such other
 22 and further evidence as the Court may be presented at the time of the hearing.

23
 24 DATED: August 10, 2010

Respectfully submitted,

25 Attorneys for Plaintiff Sabena L. Kammula

26 /s/ Wayne S. Kreger

27 MILSTEIN, ADELMAN & KREGER LLP
 28 Wayne S. Kreger (Cal. Bar No. 154759) 2800
 Donald Douglas Loop North

Santa Monica, CA 90405

WHATLEY DRAKE KALLAS

Joe R. Whatley, Jr.

1540 Broadway, 37th Floor

New York , NY 10036

LAW OFFICES OF HOWARD WEIL

RUBINSTEIN

Howard Weil Rubinstein (*Pro Hac Vice*)P.O.

Box 4839

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